

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STUDEVAN PLUS, INC.	:	CIVIL ACTION
	:	
v.	:	
	:	
TOWNSHIP OF DARBY, et al.	:	NO. 97-2971

TOWNSHIP OF DARBY	:	CIVIL ACTION
	:	
v.	:	
	:	
STUDEVAN PLUS, INC.	:	NO. 97-3529

STUDEVAN PLUS, INC., et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
TOWNSHIP OF DARBY, et al.	:	NO. 84-2631

MEMORANDUM AND ORDER

Fullam, Sr. J.

June , 2000

The troubled relationship between Studevan Plus, Inc. (a non-profit community group) and the Township of Darby and certain of its officials concerning the use of a former school building as a community center has spawned three different lawsuits in this court. Over time, the dockets of the three cases have unfortunately become intermingled and confused. For the reasons which follow, I have concluded that all three cases should be formally consolidated for record purposes, and that all three cases can now be finally put to rest.

In the 1984 case, Civil Action No. 84-2631, Studevan

Plus, Inc. sued the Township over the proposed distribution of insurance proceeds generated from a fire in the school building. That case was amicably settled in 1986, under an arrangement which contemplated that the insurance proceeds would be used in a cooperative effort by both sides to develop the school property as a community center.

The Township later came to believe that Studevan Plus, Inc. was not fulfilling its obligations under the parties' agreement; specifically, the Township alleged that certain rent payments due from Studevan Plus for rental of the school property were in default. The Township brought an action before a District Justice and obtained a judgment evicting Studevan Plus from the school property. On May 20, 1997, Studevan Plus removed that action to this court, where it was docketed under the caption "Township of Darby, plaintiff v. Studevan Plus, Inc., defendant," Civil Action No. 97-3529.

Meanwhile, however, on April 25, 1997, Studevan Plus brought a new action against the Township and various officials accusing the Township of having violated the terms of the settlement of the 1984 suit, and seeking an adjudication that the defendants were in contempt of the Court Order approving the settlement.

On July 29, 1997, I entered an Order consolidating the two 1997 cases for all purposes, and a separate Order

consolidating the 1984 case with Civil Action 97-3529. This was an unfortunate error on my part, inasmuch as, on the same date, I entered an Order remanding the removed eviction action (97-3529) to the State Court, as having been improperly removed. The resulting confusion in the dockets is not surprising. Following the remand, all further proceedings should have been docketed only in Civil Action 97-2971. The Procedural Order now being entered is intended to achieve that result, by consolidating what remains of all three actions into Civil Action No. 97-2971.

The only remaining substantive issues in all three cases have been fully explored at a non-jury trial held in June 1999, in which Studevan Plus, as plaintiff, sought to hold the Township defendants liable for non-compliance with the agreement settling the 1984 case. It was plaintiff's contention that, throughout the entire history of the relationships between the parties, plaintiff's efforts to develop the school property for the benefit of the citizens of the local community were frustrated by Township officials; and that plaintiff and its constituents were treated less favorably than other citizens of the Township because the proposed community center would serve a poor area of the Township inhabited chiefly by minorities. The settlement agreement obligated the Township to treat plaintiff equally with other recipients whenever public funds were available for distribution for community projects. Plaintiff

alleged that the defendants failed to fulfill that requirement.

The burden of proof was on the plaintiff to prove the alleged breaches. Unfortunately for plaintiff, the evidence at trial failed to establish any failure on the part of any of the defendants to comply with the settlement agreement or with the Court Order approving the settlement. There was no evidence that other groups were treated more favorably than plaintiff, with respect to any available funds controlled by the Township defendants. Indeed, there was no evidence that plaintiff had ever applied for any grants which it did not receive.

What the evidence did show was that while plaintiff and its constituents managed to conduct some activities in the school building which benefitted the community, these efforts were sporadic at best. Parts of the school building were spruced-up and made habitable, but the deplorable condition of the rest of the building and the surrounding grounds was inconsistent with widespread use of the building for community purposes. There may have been many causes for the failure of the plaintiff to achieve the noble purposes contemplated by the settlement agreement, but whatever the explanation, there is no evidence to justify a finding that the defendants were at fault. Judgment will be entered in favor of the defendants.

I note also that, according to recent newspaper reports (Philadelphia Inquirer, Wednesday, March 8, 2000) these lawsuits

may well be moot. Although counsel have not seen fit to apprise the Court of recent developments, it appears that, with the aid of a substantial loan from the County of Delaware, the Township has arranged to lease the entire property to a developer for the purpose of constructing a 36-unit apartment complex for low income senior citizens - a project entirely consistent with the goals of Studevan Plus, Inc., as expressed at the trial.

An Order follows.

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TOWNSHIP OF DARBY, et al.	:	NO. 84-2631

ORDER

AND NOW, this day of June 2000, IT IS ORDERED:

1. For purposes of clarifying the record, all three of the above-captioned actions have been, and are hereby, CONSOLIDATED, and shall hereafter be referred to as Studevan Plus, Inc. v. Township of Darby, et al., Civil Action No. 97-2971.

2. Any and all remaining claims in all three actions are DISMISSED WITH PREJUDICE.

3. The Clerk is directed to close the files in all three cases.

John P. Fullam, Sr. J.